



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

1244 Speer Boulevard
Denver, CO 80204

Reply to
Attn. of: SP 94-C-5

NOV 8 1993

Subject: Construction of School Lunch Facilities

To: STATE AGENCY DIRECTORS - Colorado ED, Iowa, Kansas, Missouri ED,
(Special Nutrition Programs) Montana OPI, Nebraska ED, North Dakota,
South Dakota, Utah, Wyoming ED

Section 210.14(a) of the regulations prohibits the use of nonprofit school food service revenues "to construct buildings." This prohibition is based on the Agency's authority to approve or disapprove use of program funds for capital expenditures under Attachment B, Part C of Office of Management and Budget Circular A-87.

The rationale for this prohibition was stated in the preamble to the rule when it was first published in interim on July 20, 1982. Entitled "Revision of School Food Service Accountability Requirements," the preamble says, in part: "... The Department ... recognizes the increasing need for financial flexibility at the local level as well as the need for adequate facilities in order to provide quality food service. Therefore, this ... rule will allow nonprofit school food service revenue to be used for altering or improving school food service facilities. However, since the Department believes that the nonprofit school food service is not intended to provide school real estate facilities the ... rule will prohibit the expenditure of nonprofit school food service revenues for the purchase or construction of buildings" (underlining added).

To date, we have interpreted "construction of buildings" to mean any construction which requires the alteration of existing roof or wall dimensions. This interpretation has allowed school food authorities (with State agency approval) to improve existing facilities with the use of school food service funds. However, it has not provided any relief for school food authorities needing to expand existing space but lacking in tax base or other resources necessary to fund such projects. In order to provide the degree of financial flexibility necessary to make program improvements in these school food authorities, our interpretation of the term "construction of buildings" is being revised to allow the expansion of existing facilities but not the construction of new buildings.

Our Regional Office will approve, on a case-by-case basis, the use of school food service funds to expand existing food service facilities. However, before granting any such approval, you must provide us with sufficient information to establish that: (1) the project is needed to improve school food service operations; (2) in the case of a multi-purpose facility, school food service funds are used only to fund up to a proportionate share of the project based on anticipated use; and (3) the use of school food service funds for the project will not adversely impact upon ongoing food service operation.

If you have any questions on this issue please contact our office.

Ann C. Hector

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Regional Director
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